IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.Rev.Pet.No. 2847 of 2007()

CRA.288/2005 of ADDL. SESSIONS COURT (ADHOC), PATHANAMTHITTA
CC.256/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PATHANAMTHITTA

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REVN. PETITIONER: REVISION PETITIONER/APPELLANTS/ACCUSED

SOMARAJAN, S/O.NARAYANAN,
USHA BHAVAN, ARUKKAR ARABIAN LAND,
ARUVAPPULAM MURI, ARUVAPPULAM VILLAGE,
KONNI TALUK.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2847 OF 2007

Dated this the 3rd day of August, 2007

O R D E R

The revision petitioner, who was the sole accused in C.C.No.256/04 on the file of the JFCM-II, Pathanamthitta, challenges the conviction entered and the sentence passed against him by the lower appellate court for an offence punishable under section 324 IPC. The trial court had convicted him for offences punishable under sections 324 and 427 IPC and sentenced him to undergo simple imprisonment for three months and to pay a fine of Rs.5,000/- (Rupees five thousand only) under each of the aforesaid offences with a direction to pay Rs.8,000/- (Rupees eight thousand only) by way of compensation under section 357(1) Cr.P.C. to PW1, the injured, a lady. On appeal preferred by the revision petitioner, the lower appellate court acquitted him of the offence punishable under section 427 IPC but confirmed the conviction with regard to section 324 IPC and modified the sentence to simple imprisonment for 15 days and to pay a fine of Rs.3,000/-(Rupees three thousand only) which was ordered to be paid as compensation under section 357(1) Cr.P.C.

to PW1, the injured.

2. Eventhough the learned counsel appearing for the revision petitioner assailed the conviction recorded against the revision petitioner, the conviction under section 324 IPC has been concurrently recorded by the courts below after a careful evaluation of the oral and documentary evidence in the case. The courts below which are the final court of facts have appreciated the evidence and in the absence of any infirmity in the appreciation of evidence by the courts, then this court, sitting in the rarefied revisional jurisdiction, dislodge the said finding and substitute its own findings. I, therefore, confirm the conviction recorded against the revision petitioner.

3. What now survives for consideration is the question of adequacy or otherwise of the sentence imposed on the revision petitioner. Having regard to the existing dispute between the parties regarding a right of way claimed by PW1 and the other facts and circumstances of the case, I do not think that penal servitude by way of incarceration was called for in this case. I am of the view that imprisonment till the rising of the court and an appropriate fine shall meet the ends of justice. Accordingly, for his

conviction under section 324 IPC, the revision petitioner is sentenced to imprisonment till the rising of the court and to pay a fine of Rs.5,000/- (Rupees five thousand only). From out of the fine amount, as and when realized, a sum of Rs.3,000/- (Rupees three thousand only) shall be paid to PW1 by way of compensation under section 357(1) Cr.P.C. Time of payment of fine is 45 days. On default to pay the fine, the revision petitioner shall undergo simple imprisonment for two months.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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